

## CHAPTER 24:05:26.01

### EXPULSION

#### Section

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24:05:26.01:14	Referral to and action by law enforcement and judicial authorities.

**24:05:26.01:01.01. Case-by-case determination.** School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this chapter, is appropriate for a student with a disability who violates a code of student conduct.

**Source:**

**General Authority:** SDCL 13-37-1.1.

**Law Implemented:** SDCL 13-37-1.1.

**24:05:26.01:07.01. Authority of school personnel – Weapons, ~~and~~ drugs, and serious bodily injury.** School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

**Source:** 26 SDR 150, effective May 22, 2000.

**General Authority:** SDCL 13-37-1.1.

**Law Implemented:** SDCL 13-37-1.1.

**24:05:26.01:07.03 Parental Notification.** On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district must notify the parents of that decision and provide the parents the procedural safeguards notice described in chapter 24:05:30.

**Source:**

**General Authority:** SDCL 13-37-1.1.

**Law Implemented:** SDCL 13-37-1.1.

**24:05:26.01:08.01. Applicability of suspension procedures.** The suspension procedures described in §§ ~~24:05:26:09.04~~ 24:05:26:09.02 to 24:05:26:09.08, inclusive, apply if an expulsion is anticipated.

**Source:** 26 SDR 150, effective May 22, 2000.

**General Authority:** SDCL 13-37-1.1.

**Law Implemented:** SDCL 13-37-1.1.

**24:05:26.01:09. Application of ten-day rule.** ~~An expulsion from one or more classes or from a school for more than ten consecutive school days is a change in placement and requires that prior notice be given to a parent, including the right to a due process hearing as specified in this chapter. Nothing in this chapter authorizes a principal or superintendent to remove a student from one or more classes or from a school for more than ten consecutive school days without board action~~ Repealed.

**Source:** 23 SDR 179, effective April 29, 1997.

**General Authority:** ~~SDCL 13-32-4, 13-37-1.1.~~

**Law Implemented:** ~~SDCL 13-32-4, 13-37-1.1.~~

**~~Cross-Reference:~~** ~~Procedural safeguards, ch 24:05:30.~~

**24:05:26.01:11. Court approval of expulsion in lieu of parental permission.** ~~If the school district needs to expel an eligible student for more than ten consecutive school days and the school is not able to obtain parental agreement for an interim placement or expulsion, the school district shall apply to a court of competent jurisdiction for permission to do so~~ Repealed.

**Source:** 23 SDR 179, effective April 29, 1997.

**General Authority:** ~~SDCL 13-1-12.1, 13-32-1, 13-32-4.~~

**Law Implemented:** ~~SDCL 13-37-1.1, 13-37-14.~~

**24:05:26.01:12. Burden of proof in court action.** ~~In filing a suit under the Individuals with Disabilities Education Act, Part B, for appropriate injunctive relief where agreement cannot be reached with the parent for a change of placement, there is a presumption in favor of an eligible student's current educational placement which school officials may rebut only by a showing that maintaining the current placement is~~

~~substantially likely to result in injury to the student or to others. In addition, the school district must demonstrate that it has made reasonable efforts to minimize the risk that the student will cause injury~~ Repealed.

**Source:** 23 SDR 179, effective April 29, 1997; 26 SDR 150, effective May 22, 2000.

**General Authority:** ~~SDCL 13-32-4, 13-37-1.1.~~

**Law Implemented:** ~~SDCL 13-32-4, 13-37-1.1.~~

**Cross-Reference:** ~~OSEP Memorandum 95-16 dated April 26, 1995, to Chief State School Officer from Judith E. Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services, United States Department of Education, and Thomas Hehir, Director, Office of Special Education programs, entitled "Questions and Answers on Disciplining Students with Disabilities."~~